



September 1, 2022

Ms. Teresa Calvert  
Department of Finance  
915 L Street, 8th Floor  
Sacramento, CA 95814

Ms. Catherine George Hagan  
State Water Resources Control Board  
c/o San Diego Regional Water  
Quality Control Board  
2375 Northside Drive, Suite 100  
San Diego, CA 92108

*And Parties, Interested Parties, and Interested Persons (See Mailing List)*

**Re: Notice of Extension Request Approval and Postponement of Hearing**  
*California Regional Water Quality Control Board, Santa Ana Region,  
Order No. R8-2009-0030, Sections IX, X, XI, XII, XIII, and, XVIII, 09-TC-03  
Santa Ana Regional Water Quality Control Board, Resolution No. R8-2009-0030,  
adopted May 22, 2009  
County of Orange, Orange County Flood Control District; and the Cities of Anaheim,  
Brea, Buena Park, Costa Mesa, Cypress, Fountain Valley, Fullerton, Huntington Beach,  
Irvine, Lake Forest, Newport Beach, Placentia, Seal Beach, and Villa Park, Claimants*

Dear Ms. Calvert and Ms. Hagan:

On August 31, 2022, the Commission on State Mandates (Commission) received the Santa Ana Regional Water Quality Control Board's and the State Water Resources Control Board's (collectively, "the Water Boards") request for a 37-day extension of time to file written comments on the Draft Proposed Decision on the above-captioned Test Claim, currently due on September 7, 2022, and for postponement of the hearing, currently set for December 2, 2022.

Specifically, the Water Boards' request states that an extension of time to October 14, 2022 is necessary due to the Draft Proposed Decision being lengthy and cites the claimants' rationale for their request that "the Draft Proposed Decision is the first since 2009 to address substantive issues in municipal separate storm sewer system ('MS4') permit test claims."<sup>1</sup> Also, this request aligns with the comment deadline established for the claimants.<sup>2</sup> Further, both the water boards have new counsel who need to review and familiarize themselves with this matter and who have pre-planned vacations over the Labor Day weekend. Finally, the Water Boards' request states that a postponement of hearing to January 27, 2023 is needed because December 2, 2022 is the date of a regularly scheduled Santa Ana Water Board meeting and certain representatives will not be available.

In addition, on August 31, 2022, the Commission received the Department of Finance's (Finance's) request for a 44-day extension of time to file written comments on the above-captioned Test Claim. Finance's request states that an extension is needed due to the lengthy Proposed Decision which raises numerous, complex issues. Finance also asserts that due to pre-

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<sup>1</sup> Claimant's Request for Extension of Time filed August 23, 2022, pages 1-2.

<sup>2</sup> Notice of Extension Request Approval issued August 24, 2022, page 1.

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scheduled time out of the office for key subject matter experts, staff are unable to review and respond by the current deadline of September 7, 2022.

Section 1187.9(a) of the Commission's regulations provide that any party or interested party to a matter may request an extension of time by filing a request with the executive director before the date set for filing of comments or rebuttals with Commission staff on that matter. The request shall fully explain the reasons for the extension, propose a new date for filing, and be certified, filed, and served in accordance with section 1181.3 of these regulations. A request that would necessitate rescheduling a hearing shall also include a request for postponement of the hearing, pursuant to subdivision (b) of this section.

Section 1187.9(b) of the Commission's regulations provide that while postponements are disfavored and pursuant to Government Code section 17530, the executive director has a duty to expedite all matters before the Commission, a request for postponement filed by an interested party may be approved for good cause. (Cal. Code. Regs., tit. 2 § 1187.9(b)(3)(D).)

Circumstances that may indicate good cause include: the unavailability of a party, party representative, or witness because of death, illness, or other excusable circumstances; and the number and complexity of the issues. (Cal. Code. Regs., tit. 2 § 1187.9(b)(1)(A) and § 1187.9(b)(1)(F).)

Therefore, a 37-day extension from the original due date and postponement of hearing to the next regularly scheduled hearing on January 27, 2023 is approved. The Water Boards' comments on the Draft Proposed Decision are now due **by 5:00 p.m. on October 14, 2022.**

In addition, a 44-day extension from the original due date is approved and Finance's comments on the Draft Proposed Decision are now due **by 5:00 p.m. on October 21, 2022.**

This matter is now set for hearing on Friday, **January 27, 2023.**

Sincerely,



Heather Halsey  
Executive Director

**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On September 1, 2022, I served the:

- **Notice of Extension Request Approval and Postponement of Hearing issued September 1, 2022**
- **Finance's Request for Extension of Time filed August 31, 2022**
- **Water Boards' Request for Extension of Time and Postponement of Hearing filed August 31, 2022**

*California Regional Water Quality Control Board, Santa Ana Region,  
Order No. R8-2009-0030, Sections IX, X, XI, XII, XIII, and, XVIII, 09-TC-03  
Santa Ana Regional Water Quality Control Board, Resolution No. R8-2009-0030,  
adopted May 22, 2009*

County of Orange, Orange County Flood Control District; and the Cities of Anaheim, Brea, Buena Park, Costa Mesa, Cypress, Fountain Valley, Fullerton, Huntington Beach, Irvine, Lake Forest, Newport Beach, Placentia, Seal Beach, and Villa Park, Claimants

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on September 1, 2022 at Sacramento, California.



Jill L. Magee  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 9/1/22

**Claim Number:** 09-TC-03

**Matter:** California Regional Water Quality Control Board, Santa Ana Region, Order No. R8-2009-0030

**Claimants:** City of Anaheim  
City of Brea  
City of Buena Park  
City of Costa Mesa  
City of Cypress  
City of Fountain Valley  
City of Fullerton  
City of Huntington Beach  
City of Irvine  
City of Lake Forest  
City of Newport Beach  
City of Placentia  
City of Seal Beach  
City of Villa Park  
County of Orange  
Orange County Flood Control District

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

**Adaoha Agu**, *County of San Diego Auditor & Controller Department*  
Projects, Revenue and Grants Accounting, 5530 Overland Avenue, Ste. 410 , MS:O-53, San Diego,  
CA 92123  
Phone: (858) 694-2129  
[Adaoha.Agu@sdcounty.ca.gov](mailto:Adaoha.Agu@sdcounty.ca.gov)

**Rebecca Andrews**, *Best Best & Krieger, LLP*  
655 West Broadway, 15th Floor, San Diego, CA 92101  
Phone: (619) 525-1300  
[Rebecca.Andrews@bbklaw.com](mailto:Rebecca.Andrews@bbklaw.com)

**Lili Apgar**, *Specialist, State Controller's Office*  
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 324-0254  
lapgar@sco.ca.gov

**Socorro Aquino**, *State Controller's Office*  
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 322-7522  
SAquino@sco.ca.gov

**Damien Arrula**, City Administrator, *City of Placentia*  
**Claimant Contact**  
401 E. Chapman Avenue, Placentia, CA 92870  
Phone: (714) 993-8171  
darrula@placentia.org

**Aaron Avery**, Legislative Representative, *California Special Districts Association*  
1112 I Street Bridge, Suite 200, Sacramento, CA 95814  
Phone: (916) 442-7887  
Aarona@csda.net

**Ryan Baron**, *Best Best & Krieger LLP*  
18101 Von Karman Avenue, Suite 1000, Irvine, CA 92612  
Phone: (949) 263-2600  
ryan.baron@bbkllaw.com

**Gretchen Beatty**, Acting City Manager, *City of Fullerton*  
**Claimant Contact**  
303 W. Commonwealth Ave, Fullerton, CA 92832  
Phone: (714) 738-6310  
citymanager@cityoffullerton.com

**Shanda Beltran**, General Counsel, *Building Industry Legal Defense Foundation*  
Building Association of Southern California, 17744 Sky Park Circle, Suite 170, Irvine, CA 92614  
Phone: (949) 553-9500  
sbeltran@biasc.org

**Baron Bettenhausen**, Deputy City Attorney, *Jones & Mayer Law Firm*  
3777 N. Harbor Blvd, Fullerton, CA 92835  
Phone: (714) 446-1400  
bjb@jones-mayer.com

**Cindy Black**, City Clerk, *City of St. Helena*  
1480 Main Street, St. Helena, CA 94574  
Phone: (707) 968-2742  
ctzafopoulos@cityofstheleena.org

**Lisa Bond**, *Richards, Watson & Gershon, LLP*  
355 South Grand Avenue, 40th Floor, Los Angeles, CA 90071-3101  
Phone: (213) 626-8484  
lbond@rwglaw.com

**Guy Burdick**, Consultant, *MGT Consulting*  
2251 Harvard Street, Suite 134, Sacramento, CA 95815  
Phone: (916) 833-7775  
gburdick@mgtconsulting.com

**Allan Burdick**,  
7525 Myrtle Vista Avenue, Sacramento, CA 95831

Phone: (916) 203-3608  
allanburdick@gmail.com

**David Burhenn**, *Burhenn & Gest, LLP*

**Claimant Representative**

624 South Grand Avenue, Suite 2200, Los Angeles, CA 90017

Phone: (213) 629-8788

dburhenn@burhenngest.com

**Evelyn Calderon-Yee**, Bureau Chief, *State Controller's Office*

Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,  
Sacramento, CA 95816

Phone: (916) 324-5919

ECalderonYee@sco.ca.gov

**Teresa Calvert**, Program Budget Manager, *Department of Finance*

915 L Street, 8th Floor, Sacramento, CA 95814

Phone: (916) 322-2263

Teresa.Calvert@dof.ca.gov

**Oliver Chi**, City Manager, *City of Irvine*

**Claimant Contact**

One Civic Center Plaza, Irvine, CA 92623-9575

Phone: (949) 724-6246

OChi@cityofirvine.org

**Annette Chinn**, *Cost Recovery Systems, Inc.*

705-2 East Bidwell Street, #294, Folsom, CA 95630

Phone: (916) 939-7901

achinnrcs@aol.com

**Carolyn Chu**, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*

925 L Street, Suite 1000, Sacramento, CA 95814

Phone: (916) 319-8326

Carolyn.Chu@lao.ca.gov

**Michael Coleman**, *Coleman Advisory Services*

2217 Isle Royale Lane, Davis, CA 95616

Phone: (530) 758-3952

coleman@munil.com

**Kris Cook**, Assistant Program Budget Manager, *Department of Finance*

915 L Street, 10th Floor, Sacramento, CA 95814

Phone: (916) 445-3274

Kris.Cook@dof.ca.gov

**Tim Corbett**, Deputy Director of Public Works, *County of Orange*

Public Works, 2301 North Glassell Street, Orange, CA 92865

Phone: (714) 955-0630

tim.corbett@ocpw.ocgov.com

**Frank Davies**, Auditor-Controller, *County of Orange*

**Claimant Contact**

1770 North Broadway, Santa Ana, CA 92701

Phone: (714) 834-2450

Frank.Davies@ac.ocgov.com

**Douglas Dennington**, Attorney, *Rutan & Tucker, LLP*

611 Anton Blvd., Suite 1400, Costa Mesa, CA 92626  
Phone: (714) 641-5100  
ddennington@rutan.com

**Paul Emery**, City Manager, *City of Anaheim*

**Claimant Contact**

200 S. Anaheim Blvd., Suite 733, Anaheim, CA 92805  
Phone: (714) 765-5162  
pemery@anaheim.net

**Donna Ferebee**, *Department of Finance*

915 L Street, Suite 1280, Sacramento, CA 95814  
Phone: (916) 445-8918  
donna.ferebee@dof.ca.gov

**Adam Fischer**, *Santa Ana Regional Water Quality Control Board*

3737 Main Street, Suite 500, Riverside, CA 92501  
Phone: (951) 320-6363  
afischer@waterboards.ca.gov

**Tim Flanagan**, Office Coordinator, *Solano County*

Register of Voters, 678 Texas Street, Suite 2600, Fairfield, CA 94533  
Phone: (707) 784-3359  
Elections@solanocounty.com

**Jennifer Fordyce**, Assistant Chief Counsel, *State Water Resources Control Board*

Office of Chief Counsel, 1001 I Street, 22nd floor, Sacramento, CA 95814  
Phone: (916) 324-6682  
Jennifer.Fordyce@waterboards.ca.gov

**Aaron France**, City Manager, *City of Buena Park*

**Claimant Contact**

6650 Beach Boulevard, Second Floor, Buena Park, CA 90621  
Phone: (714) 562-3550  
afrance@buenapark.com

**Steve Franks**, City Manager, *City of Villa Park*

**Claimant Contact**

17855 Santiago Blvd, Villa Park, CA 92861  
Phone: (714) 998-1500  
sfranks@villapark.org

**Bill Gallardo**, City Manager, *City of Brea*

**Claimant Contact**

1 Civic Center Circle, Brea, CA 92821  
Phone: (714) 990-7710  
billga@cityofbrea.net

**Howard Gest**, *Burhenn & Gest, LLP*

624 South Grand Avenue, Suite 2200, Los Angeles, CA 90402  
Phone: (213) 629-8787  
hgest@burhenngest.com

**Nicholas Ghirelli**, Attorney, *Richards Watson Gershon*

355 South Grand Avenue, Suite 4000, Los Angeles, CA 90071-3101  
Phone: (213) 626-8484  
Nghirelli@rwglaw.com

**Peter Grant**, City Manager, *City of Cypress*

**Claimant Contact**

5275 Cypress Ave, Cypress, CA 90630

Phone: (714) 229-6700

pgrant@cypressca.org

**Catherine George Hagan**, Senior Staff Counsel, *State Water Resources Control Board*

c/o San Diego Regional Water Quality Control Board, 2375 Northside Drive, Suite 100, San Diego, CA 92108

Phone: (619) 521-3012

catherine.hagan@waterboards.ca.gov

**Kimberly Hall-Barlow**, *Jones and Mayer*

3777 N. Harbor Blvd., Fullerton, CA 92835-1366

Phone: (714) 754-5399

khb@jones-mayer.com

**Heather Halsey**, Executive Director, *Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814

Phone: (916) 323-3562

heather.halsey@csm.ca.gov

**Sunny Han**, Project Manager, *City of Huntington Beach*

2000 Main Street, Huntington Beach, CA 92648

Phone: (714) 536-5907

Sunny.han@surfcity-hb.org

**Aaron Harp**, *City of Newport Beach*

Office of the City Attorney, 100 Civic Center Drive, Newport Beach, CA 92660

Phone: (949) 644-3131

aharp@newportbeachca.gov

**Tom Hatch**, City Manager, *City of Costa Mesa*

**Claimant Contact**

77 Fair Drive, Costa Mesa, CA 92626

Phone: (714) 754-5000

thomas.hatch@costamesaca.gov

**Steven Hauerwaas**, *City of Fountain Valley*

10200 Siater Avenue, Fountain Valley, CA 92708-4736

Phone: (714) 593-4441

steve.hauerwaas@fountainvalley.org

**Tom Herbel**, City Engineer, *City of Huntington Beach*

Public Works Department, 2000 Main Street, Huntington Beach, CA 92648

Phone: (714) 375-5077

Tom.Herbel@surfcity-hb.org

**Chris Hill**, Principal Program Budget Analyst, *Department of Finance*

Local Government Unit, 915 L Street, Sacramento, CA 95814

Phone: (916) 445-3274

Chris.Hill@dof.ca.gov

**Michael Ho**, Director of Public Works, *City of Brea*

545 Berry St., Brea, CA 92821

Phone: (714) 990-7691

michaelh@ci.brea.ca.us

**Tiffany Hoang**, Associate Accounting Analyst, *State Controller's Office*  
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,  
Sacramento, CA 95816  
Phone: (916) 323-1127  
THoang@sco.ca.gov

**Travis Hopkins**, *City of Huntington Beach*  
2000 Main Street, Huntington Beach, CA 92648  
Phone: (714) 536-5437  
THopkins@surfcity-hb.org

**Rob Houston**, City Manager, *City of Fountain Valley*  
**Claimant Contact**  
10200 Slater Avenue, Fountain Valley, CA 92708  
Phone: (714) 593-4410  
rob.houston@fountainvalley.org

**Brian Ingallinera**, Environmental Services Coordinator, *City of Brea*  
1 Civic Center Circle, Brea, CA 92821  
Phone: (714) 990-7672  
briani@cityofbrea.net

**Jill Ingram**, City Manager, *City of Seal Beach*  
**Claimant Contact**  
211 8th Street, Seal Beach, CA 90740  
Phone: (562) 431-2527  
jingram@sealbeachca.gov

**Jason Jennings**, Director, *Maximus Consulting*  
Financial Services, 808 Moorefield Park Drive, Suite 205, Richmond, VA 23236  
Phone: (804) 323-3535  
SB90@maximus.com

**Angelo Joseph**, Supervisor, *State Controller's Office*  
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,  
Sacramento, CA 95816  
Phone: (916) 323-0706  
AJoseph@sco.ca.gov

**Jayne Joy**, Executive Officer, *Santa Ana Regional Water Quality Control Board*  
3737 Main Street, Suite 500, Riverside, CA 92501-3348  
Phone: (951) 782-3284  
Jayne.Joy@waterboards.ca.gov

**Jeremy Jungreis**, Partner, *Rutan & Tucker, LLP*  
611 Anton Boulevard, 14th Floor, Costa Mesa, CA 92626  
Phone: (714) 641-5100  
jjungreis@rutan.com

**Anita Kerezsi**, *AK & Company*  
2425 Golden Hill Road, Suite 106, Paso Robles, CA 93446  
Phone: (805) 239-7994  
akcompanysb90@gmail.com

**Joanne Kessler**, Fiscal Specialist, *City of Newport Beach*  
Revenue Division, 100 Civic Center Drive, Newport Beach, CA 90266  
Phone: (949) 644-3199  
jkessler@newportbeachca.gov

**Lisa Kurokawa**, Bureau Chief for Audits, *State Controller's Office*  
Compliance Audits Bureau, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 327-3138  
lkurokawa@sco.ca.gov

**Claudia Landeras-Sobaih**, Principal Plan Check Engineer, *City of Irvine*  
One Civic Center Plaza, PO Box 19575, Irvine, Irvin 92623  
Phone: (949) 724-6330  
CLanderas-Sobaih@cityofirvine.org

**Michael Lauffer**, Chief Counsel, *State Water Resources Control Board*  
1001 I Street, 22nd Floor, Sacramento, CA 95814-2828  
Phone: (916) 341-5183  
michael.lauffer@waterboards.ca.gov

**Kim-Anh Le**, Deputy Controller, *County of San Mateo*  
555 County Center, 4th Floor, Redwood City, CA 94063  
Phone: (650) 599-1104  
kle@smcgov.org

**Alison Leary**, Deputy General Counsel, *League of California Cities*  
1400 K Street, Suite 400, Sacramento, CA 95814  
Phone: (916) 658-8200  
aleary@cacities.org

**Candice Lee**, *Richards, Watson & Gershon, LLP*  
355 South Grand Avenue, 40th Floor, Los Angeles, CA 90071  
Phone: (213) 626-8484  
clee@rwglaw.com

**Fernando Lemus**, Principal Accountant - Auditor, *County of Los Angeles*  
Auditor-Controller's Office, 500 West Temple Street, Room 603, Los Angeles, CA 90012  
Phone: (213) 974-0324  
flemus@auditor.lacounty.gov

**Grace Leung**, City Manager, *City of Newport Beach*  
100 Civic Center Drive, Newport Beach, CA 92660  
Phone: (949) 644-3001  
gleung@newportbeachca.gov

**Erika Li**, Chief Deputy Director, *Department of Finance*  
915 L Street, 10th Floor, Sacramento, CA 95814  
Phone: (916) 445-3274  
erika.li@dof.ca.gov

**Shally Lin**, Director of Finance - Interim, *City of Fountain Valley*  
10200 Slater Avenue, Fountain Valley, CA 92708  
Phone: (714) 593-4418  
Shally.Lin@fountainvalley.org

**Keith Linker**, *City of Anaheim*  
Public Works, 200 S. Anaheim Boulevard, Anaheim, CA 92805  
Phone: (714) 765-5148  
KLinker@anaheim.net

**Thomas Lo**, Water Quality Administrator, *City of Irvine*  
One Civic Center Plaza, PO Box 19575, Irvine, CA 92623

Phone: (949) 724-6315  
tlo@cityofirvine.org

**Everett Luc**, Accounting Administrator I, Specialist, *State Controller's Office*  
3301 C Street, Suite 740, Sacramento, CA 95816  
Phone: (916) 323-0766  
ELuc@sco.ca.gov

**Jill Magee**, Program Analyst, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
Jill.Magee@csm.ca.gov

**Corrie Manning**, Assistant General Counsel, *League of California Cities*  
1400 K Street, Suite 400, Sacramento, CA 95814  
Phone: (916) 658-8200  
cmanning@cacities.org

**Darryl Mar**, Manager, *State Controller's Office*  
3301 C Street, Suite 740, Sacramento, CA 95816  
Phone: (916) 323-0706  
DMar@sco.ca.gov

**Jane McPherson**, Financial Services Director, *City of Oceanside*  
300 North Coast Highway, Oceanside, CA 92054  
Phone: (760) 435-3055  
JmcPherson@oceansideca.org

**Michelle Mendoza**, *MAXIMUS*  
17310 Red Hill Avenue, Suite 340, Irvine, CA 95403  
Phone: (949) 440-0845  
michellemendoza@maximus.com

**Mina Mikhael**, Interim Director of Public Works, *City of Buena Park*  
6650 Beach Boulevard, Buena Park, CA 90621  
Phone: (714) 562-3670  
mmikhael@buenapark.com

**Andre Monette**, Partner, *Best Best & Krieger, LLP*  
2000 Pennsylvania NW, Suite 5300, Washington, DC 20006  
Phone: (202) 785-0600  
andre.monette@bbklaw.com

**Lourdes Morales**, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*  
925 L Street, Suite 1000, Sacramento, CA 95814  
Phone: (916) 319-8320  
Lourdes.Morales@LAO.CA.GOV

**Marilyn Munoz**, Senior Staff Counsel, *Department of Finance*  
915 L Street, Sacramento, CA 95814  
Phone: (916) 445-8918  
Marilyn.Munoz@dof.ca.gov

**Steve Myrter**, Director of Public Works, *City of Seal Beach*  
211 Eighth Street, Seal Beach, CA 90740  
Phone: (562) 431-2527  
smyrter@sealbeachca.gov

**Geoffrey Neill**, Senior Legislative Analyst, Revenue & Taxation, *California State Association of*

*Counties (CSAC)*

1100 K Street, Suite 101, Sacramento, CA 95814

Phone: (916) 327-7500

gneill@counties.org

**Andy Nichols**, *Nichols Consulting*

1857 44th Street, Sacramento, CA 95819

Phone: (916) 455-3939

andy@nichols-consulting.com

**Adriana Nunez**, Staff Counsel, *State Water Resources Control Board*

1001 I Street, Sacramento, CA 95814

Phone: (916) 322-3313

Adriana.nunez@waterboards.ca.gov

**Patricia Pacot**, Accountant Auditor I, *County of Colusa*

Office of Auditor-Controller, 546 Jay Street, Suite #202, Colusa, CA 95932

Phone: (530) 458-0424

ppacot@countyofcolusa.org

**Leon Page**, County Counsel, *333 W. Santa Ana Blvd.*

, Santa Ana, CA 92702

Phone: (714) 834-3303

leon.page@coco.ocgov.com

**Arthur Palkowitz**, *Artiano Shinoff*

2488 Historic Decatur Road, Suite 200, San Diego, CA 92106

Phone: (619) 232-3122

apalkowitz@as7law.com

**Johnnie Pina**, Legislative Policy Analyst, *League of Cities*

1400 K Street, Suite 400, Sacramento, CA 95814

Phone: (916) 658-8214

jpina@cacities.org

**Jai Prasad**, *County of San Bernardino*

Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415-0018

Phone: (909) 386-8854

jai.prasad@sbcountyatc.gov

**Jonathan Quan**, Associate Accountant, *County of San Diego*

Projects, Revenue, and Grants Accounting, 5530 Overland Ave, Suite 410, San Diego, CA 92123

Phone: 6198768518

Jonathan.Quan@sdcountry.ca.gov

**David Rice**, *State Water Resources Control Board*

1001 I Street, 22nd Floor, Sacramento, CA 95814

Phone: (916) 341-5161

davidrice@waterboards.ca.gov

**Elsa Robinson**, *City of Placentia*

401 East Chapman Avenue, Placentia, CA 92870

Phone: (714) 993-8148

erobinson@placentia.org

**Debra Rose**, City Manager, *City of Lake Forest***Claimant Contact**

100 Civic Center Drive, Lake Forest, CA 92630

Phone: (949) 461-3400  
drose@lakeforestca.gov

**Teresita Sablan**, *State Water Resources Control Board*  
1001 I Street, 22nd Floor, Sacramento, CA 95814  
Phone: (916) 341-5174  
Teresita.Sablan@waterboards.ca.gov

**Cindy Sconce**, Director, *MGT*  
Performance Solutions Group, 3600 American River Drive, Suite 150, Sacramento, CA 95864  
Phone: (916) 276-8807  
csconce@mgtconsulting.com

**Raja Sethuraman**, Director of Public Works, *City of Costa Mesa*  
Department of Public Works, 77 Fair Drive, Costa Mesa, CA 92628  
Phone: (714) 754-5343  
raja.sethuraman@costamesaca.gov

**Carla Shelton**, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
carla.shelton@csm.ca.gov

**Camille Shelton**, Chief Legal Counsel, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
camille.shelton@csm.ca.gov

**Wayne Shimabukuro**, *County of San Bernardino*  
Auditor/Controller-Recorder-Treasurer-Tax Collector, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415-0018  
Phone: (909) 386-8850  
wayne.shimabukuro@atc.sbcounty.gov

**Jennifer Shook**, *County of Orange - OC Public Works Department*  
OC Watersheds Program - Stormwater External, 2301 N. Glassell Street, Orange, CA 92865  
Phone: (714) 955-0671  
jennifer.shook@ocpw.ocgov.com

**Natalie Sidarous**, Chief, *State Controller's Office*  
Local Government Programs and Services Division, 3301 C Street, Suite 740, Sacramento, CA 95816  
Phone: 916-445-8717  
NSidarous@sco.ca.gov

**Michelle Skaggs Lawrence**, City Manager, *City of Oceanside*  
300 North Coast Highway, Oceanside, CA 92054  
Phone: (760) 435-3055  
citymanager@oceansideca.org

**Mike Smith**, Water Quality Manager, *City of Cypress*  
5275 Orange Avenue, Cypress, CA 90630  
Phone: (714) 229-6752  
waterquality@cypressca.org

**Christina Snider**, Senior Deputy County Counsel, *County of San Diego*  
1600 Pacific Highway, Room 355, San Diego, CA 92101

Phone: (619) 531-6229  
Christina.Snider@sdcounty.ca.gov

**Eileen Sobeck**, Executive Director, *State Water Resources Control Board*  
1001 I Street, 22nd Floor, Sacramento, CA 95814-2828  
Phone: (916) 341-5183  
Eileen.Sobeck@waterboards.ca.gov

**Cristina Talley**, City Attorney, *City of Anaheim*  
200 S. Anaheim Boulevard #356, Anaheim, CA 92805  
Phone: (714) 765-5169  
CTalley@anaheim.net

**Brittany Thompson**, Budget Analyst, *Department of Finance*  
Local Government Unit, 915 L Street, Sacramento, CA 95814  
Phone: (916) 445-3274  
Brittany.Thompson@dof.ca.gov

**Jolene Tollenaar**, *MGT Consulting Group*  
2251 Harvard Street, Suite 134, Sacramento, CA 95815  
Phone: (916) 243-8913  
jolenetollenaar@gmail.com

**James Treadaway**, Director of Public Works, *County of Orange*  
300 North Flower Street, Santa Ana, CA 92703  
Phone: (714) 667-9700  
James.Treadaway@ocpw.ocgov.com

**Evelyn Tseng**, *City of Newport Beach*  
100 Civic Center Drive, Newport Beach, CA 92660  
Phone: (949) 644-3127  
etseng@newportbeachca.gov

**Brian Uhler**, Principal Fiscal & Policy Analyst, *Legislative Analyst's Office*  
925 L Street, Suite 1000, Sacramento, CA 95814  
Phone: (916) 319-8328  
Brian.Uhler@LAO.CA.GOV

**Travis Van Ligten**, Associate, *Rutan & Tucker, LLP*  
611 Anton Blvd, Suite 1400, Costa Mesa, CA 92626  
Phone: (714) 641-5100  
tvanligten@rutan.com

**Antonio Velasco**, Revenue Auditor, *City of Newport Beach*  
100 Civic Center Drive, Newport Beach, CA 92660  
Phone: (949) 644-3143  
avelasco@newportbeachca.gov

**Michael Vigliotta**, *City of Huntington Beach*  
2000 Main Street, Huntington Beach, CA 92648  
Phone: (714) 536-5555  
MVigliotta@surfcity-hb.org

**Emel Wadhvani**, Senior Staff Counsel, *State Water Resources Control Board*  
Office of Chief Counsel, 1001 I Street, Sacramento, CA 95814  
Phone: (916) 322-3622  
emel.wadhvani@waterboards.ca.gov

**Ada Waelder**, Legislative Analyst, Government Finance and Administration, *California State*

*Association of Counties (CSAC)*

1100 K Street, Suite 101, Sacramento, CA 95814

Phone: (916) 327-7500

awaelder@counties.org

**David Webb**, *City of Newport Beach*

100 Civic Center Drive, Newport Beach, CA 92660

Phone: (949) 644-3328

dwebb@newportbeachca.gov

**Renee Wellhouse**, *David Wellhouse & Associates, Inc.*

3609 Bradshaw Road, H-382, Sacramento, CA 95927

Phone: (916) 797-4883

dwa-renee@surewest.net

**Tom Wheeler**, Director of Public Works, *City of Lake Forest*

100 Civic Center Drive, Lake Forest, CA 92630

Phone: (949) 461-3480

twheeler@lakeforestca.gov

**Jacqueline Wong-Hernandez**, Deputy Executive Director for Legislative Affairs, *California State**Association of Counties (CSAC)*

1100 K Street, Sacramento, CA 95814

Phone: (916) 650-8104

jwong-hernandez@counties.org

**Julia Woo**, Deputy County Counsel, *County of Orange*

333 West Santa Ana Blvd, Suite 407, Santa Ana, CA 92701

Phone: (714) 834-6046

julia.woo@coco.ocgov.com

**Elisa Wynne**, Staff Director, *Senate Budget & Fiscal Review Committee*

California State Senate, State Capitol Room 5019, Sacramento, CA 95814

Phone: (916) 651-4103

elisa.wynne@sen.ca.gov

**Juan Zavala**, Principal Engineer, *City of Fullerton*

Public Works, 303 West Commonwealth Avenue, Fullerton, CA 92832

Phone: (714) 738-6845

Juan.Zavala@cityoffullerton.com

**Al Zelinka**, City Manager, *City of Huntington Beach***Claimant Contact**

2000 Main St, Huntington Beach, CA 92648

Phone: (714) 375-8465

Al.Zelinka@surfcity-hb.org